

State of California



Fair Political Practices Commission

P.O. BOX 807 • SACRAMENTO, 95804 • • • 1100 K STREET BUILDING, SACRAMENTO, 95814

Technical Assistance	• •	Administration	• •	Executive/Legal	• •	Enforcement	• •	Statements of Economic Interest
(916) 322-5662		322-5660		322-5901		322-6441		322-6444

February 28, 1985

Alfred Herrera
Assistant City Manager
Charles R. Martin
City Attorney
City of Irwindale
5050 North Irwindale Avenue
Irwindale, CA 91706

Re: Request for Advice by
Charles R. Martin
Our No. A-84-298

Dear Messrs. Herrera and Martin:

Your most recent communication, dated January 23, 1985, was received in this office on February 6, 1985. The facts, as ascertained from your correspondence and the maps which you enclosed, are as follows.

FACTS

Irwindale is a small community of 1,000 population, most of which resides within one-half mile of property which the City wishes to acquire for public purposes including possible Community Redevelopment Agency (CRA) purposes. The City Council also sits as the CRA Board and must act to acquire property. All five of the Council/Board members own real property or businesses or have sources of income located within 1,000 feet of the properties currently under consideration for acquisition. You have stated that the proposed

... acquisition will undoubtedly through development enhance their property, business or income interests, but probably to no more extent than all of the other remaining 1,000 residents within the same area (except possibly as to degree based on distance)....
(Emphasis added.)

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While Irwindale has substantial geographic territory, its residents are concentrated in a relatively small area because much of Irwindale's territory is comprised of a flood control basin. The proposed project area would involve purchase of two properties on the east side of Irwindale Avenue, Lots 4 and 5, as shown on the maps you sent.

Mayor Michael Miranda

The Mayor owns lot 37 at 5118 Parque del Norte and Lot 35 on Irwindale Avenue at the corner of Central Street. The former is developed with a single family home, the latter is undeveloped. One of the proposed project lots, Lot 5, which is owned by the Mayor's father, is situated directly to the west of and abuts partially on the Mayor's home on Lot 37. The undeveloped parcel owned by the Mayor is approximately 900 feet to the south of the proposed project, on the far side of a large city-owned park, which also contains various city offices and the police department.

Councilman Joe Breceda

Councilman Breceda owns Lots 9 and 14 on Hidalgo Street. Lot 14 is less than 200 feet west from the proposed project site, while Lot 9 is just under 500 feet west from the project. Both lots are developed as single family residences.

Councilman Jose (Sal) Castellanos

Councilman Castellanos owns Lot 24 on Calle de Paseo, which is developed with a single family residence, located approximately 1,000 feet from the proposed site, diagonally across the city park. By street, the property is approximately 1,500 feet from the proposed project.

Councilman Arthur Tapia

Councilman Tapia owns Lot 19 on Hidalgo Street, it is developed with a single family residence. This lot is situated between those of Councilman Breceda, approximately 325 feet west of the proposed project.

Councilman Pat Miranda

Councilman Miranda owns Lots 1 and 3 on Irwindale Avenue. Lot 3 is developed with a fast food restaurant and Lot 1, which is adjacent is used primarily for parking. Both lots are just to the north of the proposed project site, being separated from the site by a 50-foot wide parcel. Councilman Miranda, also owns

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Lot 12 on Hidalgo Street, located directly across the street from Councilman Tapia's home, some 325 feet west of the proposed project. Lot 12 is developed with a single family residence.

Relatives

Most of the councilmembers have relatives who also own property in Irwindale. Councilman Breceda's brother and sister-in-law own one of the parcels which is proposed to be acquired for the project. As previously mentioned, Mayor Michael Miranda's father owns the other parcel proposed to be purchased for the project.

The Project

The City at present does not have any concrete plan for Lots 4 and 5, but would purchase them to hold for future commercial type development.

QUESTIONS

You have asked whether each of the councilmembers may:

(1) vote to acquire the property by purchase;

- (a) at appraised price;
- (b) at more than appraised price.

(2) vote to acquire by eminent domain.

CONCLUSION

The councilmembers need not disqualify themselves. The method of purchase will not alter this conclusion unless a purchase "at more than appraised price" would have a significant effect upon the values of the nearby residential properties on Hidalgo Street owned by Councilmembers Tapia and Breceda, the abutting residential property owned by Mayor Michael Miranda on Parque del Norte or on the commercial property and parking lot owned by Councilmember Pat Miranda. Our conclusion will very likely differ when the City addresses the issue of what specific commercial development to put on the property.

ANALYSIS

Although relatives of two councilmembers own the subject properties, this is not a basis for disqualification, because neither councilmember has an interest in real property in those

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two parcels. Government Code Section 82033, provides as follows:^{1/}

"Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family if the fair market value of the interest is one thousand dollars (\$1,000) or more. Interests in real property of an individual includes a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10 percent interest or greater.

Property owned by an adult relative other than the spouse creates no economic interest on the part of a public official unless the official holds a deed of trust as a result of a loan or has some other financial involvement.^{2/} We have been advised of no such interests in this case. We have also been advised of no other financial involvement between Mayor Michael Miranda and his father or between Councilman Pat Miranda and his relatives which would give rise to a "source of income" interest under the Act.^{3/}

Since there is no economic interest of any councilmember in the subject properties, the only basis for a conflict arises from the properties and the business which they own themselves. While we have not been provided with figures, we will assume

^{1/} The Political Reform Act is found at Government Code Sections 81000-91015. All statutory references are to the Government Code.

^{2/} Section 82029, defines "immediate family" as follows:

"Immediate family" means the spouse and dependent children.

^{3/} For instance if Mayor Miranda's father employed him and paid him a salary, then his father would be a "source of income" within the meaning of Section 87103(c) and disqualification might be required.

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that the requisite dollar thresholds for these interests are met. Specific development decisions may well have an indirect, but foreseeable, financial effect upon the surrounding properties which is both material and distinguishable from the effect upon the public generally. This is particularly true of Mayor Michael Miranda's abutting property and Councilman Pat Miranda's commercial properties which are only one lot removed. However, no such development decision is being made at this time. The decision is simply to purchase the two lots and to hold them for future commercial development. Although the two properties are currently developed with single-family residences, the zoning map provided indicates a C-3 commercial zone on these properties, which Mr. Herrera has confirmed. Thus, the purchase and holding for future commercial development represents no change in the potential use of the properties. Lot 2, directly to the north has a butcher shop/market on it and Lot 43 directly across Irwindale Avenue has a bank and parking for the bank. The nearby City-owned properties are vacant or essentially vacant.

The only foreseeable effects upon neighboring property values from the mere purchase of the land would seem to come from the price paid. If it were substantially above the appraisal value, it could affect the values of surrounding properties. If purchased at appraised value or by eminent domain (either of which presumably would equal the current fair market value), there would seem to be no effect on the surrounding properties.

CAVEAT


Lastly, we would caution that if the situation in Irwindale is such that the mere fact that the City chooses to purchase land for commercial development at this particular location will signal where such future development will occur and, hence, significantly raise or lower the values of nearby properties,^{4/} then you should seek further advice by providing us with the specific facts.

^{4/} The guidelines for determining what a "significant" effect upon real property values will be are found in Commission regulation 2 Cal. Adm. Code Section 18702(b)(2), copy enclosed.

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Should you have any questions regarding this advice, please do not hesitate to contact me at (916) 322-5901.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

REL:plh
Enclosure



CITY OF IRWINDALE

5050 NORTH IRWINDALE AVENUE - IRWINDALE, CALIFORNIA 91706
(213) 962-3381

January 10, 1985

State of California
Fair Political Practices Commission
P.O. Box 807
Sacramento, CA 95804

Attention: Mr. Robert Leidich

Subject: File A-84-298

Dear Mr. Leidich:

In error we omitted the following list of properties located in the City of Irwindale.

I hope this list will assist you to identify the different parcels shown on the map we sent earlier.

Sincerely,

CITY OF IRWINDALE

Alfred Herrera
Alfred Herrera
Assistant City Manager

AH/ap
Encl.

Councilman Joseph Breceda - Shown in Yellow

	Relationship	Map Bk./Pg./Parcel No.	Address
Joseph & Lucy Breceda	Owner	8417-28-9	15809 Hidalgo St.
Joseph & Lucy Breceda	Owner	8417-28-14	15847 Hidalgo St.
Charles & Esmeralda Breceda	Brother	8417-28-28	15839 Juarez St.
Charles & Esmeralda Breceda	Brother	8417-28-30	15851 Juarez St.
Charles & Esmeralda Breceda	Brother	8417-28-42	15806 Juarez St.
Ramona Breceda	Mother	8417-28-31	5152 Irwindale Ave.
Ramona Breceda	Mother	8417-29-2	5150 Irwindale Ave.
Richard & Stella Breceda	Brother	8417-29-4	5140 Irwindale Ave.
Ramona Breceda	Mother	8417-29-7	5124 Irwindale Ave.
Raul & Alice Breceda	Brother	8417-29-15	5145 Ayon Ave.
Richard & Linda Breceda	Son	8417-29-906	16016 Calle Del Norte

Councilman Jose (Sal) Castellanos - Shown in Green

	Relationship	Map Bk./Pg./Parcel No.	Address
Jose (Sal) Castellanos	Owner	8417-31-24	16128 Calle De Paseo

Councilman Patricio (Patrick) Miranda - Shown in Red

	Relationship	Map Bk./Pg./Parcel No.	Address
Patricio & Mercy Miranda	Owner	8417-28-12	15829 Hidalgo St.
Patrick Miranda	Owner	8417-29-1	15829 Hidalgo St.
Patrick & Mercy Miranda	Owner	8417-29-3	16004 Arrow Hwy.
Patrick & Geraldine Miranda	Son	8417-31-2	16160 Progress Lane
Patrick & Geraldine Miranda	Son	8417-31-16	16169 Progress Lane
Julian & Delores Miranda	Brother	8417-29-34	16103 Calle Del Norte
Julian & Delores Miranda	Brother	8417-31-1	16164 Progress Lane
Ignacio & Arline Miranda	Brother	8417-31-15	16165 Progress Lane
Ignacio & Arline Miranda	Brother	8417-31-36	5014 Irwindale Ave.
Paul & Frances Islas	Sister	8417-29-19	Vacant

Mayor Michael Miranda - Shown in Blue

	Relationship	Map Bk./Pg./Parcel No.	Address
Michael Miranda	Owner	8417-29-37	5118 Parque Del Norte
Michael Miranda	Owner	8417-31-35	Vacant
Miguel Miranda	Father	8417-29-5	5134 Irwindale Ave.
John & Lucia Fraijo	Sister	8417-31-19	16154 Calle De Paseo

Councilman Arthur Tapia - Shown in Purple

	Relationship	Map Bk./Pg./Parcel No.	Address
Arthur Tapia	Owner	8417-28-19	15830 Hidalgo St.
Frances Diaz	Mo.-in-Law	8417-31-27	16115 Central St.
Arthur & Maria Tapia	Son	8417-31-28	16109 Central St.
Joseph & Emilie Tapia	Brother	8417-31-32	16043 Central St.
Arthur & Maria Tapia	Son	8417-31-45	Vacant

City Owned Property

8417-28-901	Crosshatched	
8417-29-903	Crosshatched	
8417-29-909	Crosshatched	
8417-29-9	Crosshatched	Recently Purchased
8417-29-10	Crosshatched	Recently Purchased
8417-30-900	Crosshatched	City Hall Complex
8417-30-901	Crosshatched	and City Park

Proposed purchase of two (2) properties for Redevelopment Project:

8417-29-4	Richard & Stella Breceda
8417-29-5	Miguel Miranda

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January 14, 1985

Alfred Herrera
Assistant City Manager
Charles R. Martin
City Attorney
City of Irwindale
5050 North Irwindale Avenue
Irwindale, CA 91706

Re: Request for Advice by
Charles R. Martin
Our No. A-84-298

Dear Messrs. Herrera and Martin:

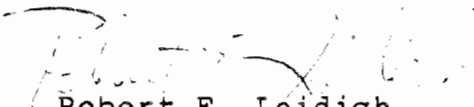
Your communication, with enclosures, postmarked January 3, 1985, finally arrived this date. I still have several questions. First, what is the precise nature of the redevelopment project under consideration for Lots No. 4 and 5 on Irwindale Avenue? Second, you have indicated properties owned by councilmembers "or family." By "family" do you mean "immediate family" as that term is defined in the Political Reform Act? (Government Code Section 82029 defines "immediate family" as the spouse and dependent children of the official.) Real property interests are defined to include interests held by the official's immediate family (Government Code Section 82033) and such interests can be disqualifying (Government Code Section 87103 [last paragraph]). However, interests held by aunts, uncles, brothers and sisters are not disqualifying. Please clarify the status of ownership of the parcels indicated in color on the maps, and the current use (if developed) or nonuse (if undeveloped) of these parcels. Also, do the maps show all of the City of Irwindale? How many residential units are there in the City?

Your prompt response to these questions will be greatly appreciated. I enclose for your review a memorandum regarding

Alfred Herrera
Charles R. Martin
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our current review of a possible new regulation dealing with the standards to be applied in such cases. We invite your comments.

Sincerely,



Robert E. Leidigh
Counsel
Legal Division

REL:plh
Enclosure



CITY OF IRWINDALE

5050 NORTH IRWINDALE AVENUE - IRWINDALE, CALIFORNIA 91706
(213) 962-3381

OFFICE OF
CITY MANAGER

November 30, 1984

Fair Political Practices Commission
1100 K Street
Sacramento, California 95814

Attention: Janis McLean

Dear Ms. McLean:

Re your advisories: A-84-188, A-84-128 and others, I have the following situations:

Irwindale is a small City of 1,000, most of which reside in an area within $\frac{1}{2}$ mile of property which the City wishes to acquire for public purposes including possible Community Redevelopment Agency(CRA) purposes.

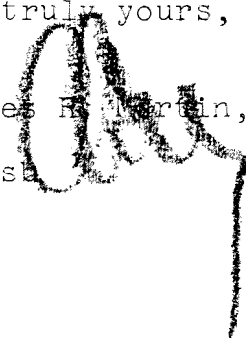
May the City Council members(or CRA Board Members) all five of which own property, a business or source of income within 1,000 feet of the proposed acquisition, and which acquisition will undoubtedly through development enhance their property, business or income interests, but probably to no more extent than all of the other remaining 1,000 residents within the same area(except possibly as to degree based on distance);

- 1) vote to acquire the property by purchase;
 - a) at appraised price;
 - b) at more than appraised price
- 2) vote to acquire by eminent domain.

In light of Malone v. Poway 8 DAR 3752, has the rule of necessity been enlarged? If less than all can vote, are the participants drawn by lot?

The acquisition is on hold until we receive your answer.

Very truly yours,


Charles R. Martin, A/City Manager/City Attorney

CRM/mst